

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 777 of 1996  
in  
SPECIAL CIVIL APPLICATION No. 5657 of 1985  
WITH  
LETTERS PATENT APPEAL No. 778 of 1996  
in  
SPECIAL CIVIL APPLICATION No. 623 of 1983  
WITH  
LETTERS PATENT APPEAL No. 779 of 1996  
in  
SPECIAL CIVIL APPLICATION No. 624 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER  
and  
MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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G E B

Versus

BASIA R MATRABHAI

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Appearance:

MR VJ DESAI for Petitioners  
MR BB PARMAR for Respondent No. 1  
SERVED BY DS for Respondent No. 18,19,20,  
21,22,23,24,25,26,27,28,29,30,31,32,33,34,35

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CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE S.D.PANDIT  
Date of decision: 07/07/97

ORAL JUDGEMENT

Admitted.

Mr. B.B Parmar, appears and waives service of notice of admission on behalf of original Petitioners Workmen. In the facts and circumstances of the case, all the matters have been taken up for final hearing today.

2. These appeals are filed against common judgment and order passed by learned Single Judge in Special Civil Application Nos. 5657 of 1985; 623 of 1986 and 624 of 1983, on May 3, 1996. The learned Single Judge allowed all the petitions and passed an order; operative part of which reads thus :-

" In the result, these Special Civil Applications are allowed. The respondents are directed to pay to the petitioners the minimum wages as prescribed from time to time under the Minimum Wages Act for the work done by the petitioners. The petitioners are entitled for the minimum wages with effect from the date of filing of these petitions. These petitions have been filed on 14-10-1985, 31-1-1986 and 31-1-1986 respectively. The petitioners will get the minimum wages as revised from time to time. The respondents are directed to calculate the amount of the minimum wages which are payable to the petitioners for all this period. This exercise should be completed by the respondents within a period of three months from the date of receipt of the certified copy of this order. The difference of the wages should be paid to the petitioners within a period of two months thereafter. The petitioners shall be entitled for interest on the arrears from due date at the rate of 12% per annum. The petitioners have been unnecessarily harassed by the respondents by subjecting them to all these litigations. The respondents are directed to pay the petitioners Rs. 2000/= by way of costs of these Special Civil Applications."

3. The case of the petitioners was that they were appointed as Helpers by different Gram Panchayats for doing the work of Gujarat Electricity Board {"GEB" for short}. Thus, though they were employed by panchayats, they were doing work of GEB. They were, however, not paid pay-scales of Helper of GEB. Not only that but they were even not paid minimum wages. They were paid only consolidated salary. This action of the Panchayats, GEB and State was contrary to law and violative of fundamental rights guaranteed in Part III of the Constitution of India. Though over and above GEB, State of Gujarat and Gram Panchayats were party respondents, except GEB, none appeared before the learned Single Judge. The learned Single Judge allowed the petitions and issued necessary directions, as stated above.

4. It is also necessary to state that neither the State of Gujarat, nor any of the Gram Panchayats has filed any appeal. LPAs are filed only by GEB. In the light of the appeals filed by GEBoa a short question falls for our consideration is as to whether GEB can be held liable for payment of minimum wages to petitioners. It was the case of the petitioners that they were appointed by Gram Panchayats for the purpose of doing electricity work and they were not paid regular Pay-scales of Helper, which is being paid by the Board to other Helpers. It was also contended that the petitioners were also not paid minimum wages to which they were entitled under the provisions of the Minimum Wages Act. They contended that such an action was arbitrary, unreasonable and violative of Articles 14, 19 and 21 of the Constitution of India.

5. The learned Single Judge after hearing the parties recorded a finding that so far as Board is concerned, "the petitioners have come up with the case that they are the employees of the Gujarat State Electricity Board, which is factually not correct." The learned Single Judge then considered the rival contentions of the parties, and as stated hereinabove, directed all the respondents; including GEB to pay minimum wages to the petitioners.

6. Mr. S.B Vakil, instructed by Mr. V.J Desai contended that so far GEB is concerned, when it was not even the case of the petitioners themselves that they were appointed by GEB, and when the learned Single Judge recorded a finding that the case of the petitioners that they were employees of the G.E.B, could not be said to be correct, no order could have been passed against the

G.E.B.

7. Mr. Parmar, no doubt, drew our attention to a decision of the Hon'ble Supreme Court in Patel Ishwerbhai Prahladbhai v. Taluka Development Officer & Ors., AIR 1983 SC 336. In that case, Their Lordships of the Supreme Court considered the provisions of the Minimum Wages Act in light of the definition "Employer" in Section 2 (e) of the Act and held that Panchayat employees were State employees. For the said purpose, reliance was placed on two earlier decisions of this Court and a finding which was recorded by the authorities which was confirmed by the learned Single Judge in Civil Revision Applications No. 1434 to 1437 of 1973 that the applicants were employees of the Government. In the light of the said finding, a conclusion of learned Single Judge of this Court holding that they were entitled to minimum wages from the employer was confirmed by the Supreme Court. The Panchayats were party against whom such finding was recorded. They challenged the said finding but the contention was negatived by the Supreme Court.

8. In the instant case, a finding is recorded by the learned Single Judge that GEB was not employer and that in the light of evidence before the Court a finding is recorded that the petitioners were employees of Gram Panchayat. In our considered opinion, therefore, the order to pay minimum wages by the GEB requires to be intereferred with. The said order to that extent is set-aside.

9. We may, however, clarify that we are not intereferred with the finding regarding payment of minimum wages by other respondents as none of them have filed an appeal. The order passed by the learned Single Judge, therefore, requires to be quashed and set-aside and is accordingly quashed and set-aside against GEB. The order regarding payment of costs by the GEB is also set-aside.

10. We may clarify that we are not intereferred with the order of payment of wages, interest as well as costs, so far as the other respondents in the main matters are concerned. We may also say that we have made observations and set-aside the order passed against GEB, in the light of the facts and circumstances before us in

these matters, and we may not be understood to have stated anything on larger question regarding the status of such employeess, and as and when such question will arise before an appropriate authority, in the light of the evidence led before it, the authority will decide the point in accordance with law. No order as to costs.

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Prakash\*